

**2009 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB375)**

Received: **11/25/2009**

Received By: **gmalaise**

Wanted: **11/30/2009**

Identical to LRB:

For: **Director of State Courts 7-9733**

By/Representing: **Nancy Rottier**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **nancy.rottier@wicourts.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Exchange of electronic records between juvenile courts and Department of Children and Families

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 11/25/2009	wjackson 11/30/2009		_____			
/1			mduchek 11/30/2009	_____	sbasford 11/30/2009	sbasford 11/30/2009	

FE Sent For:

<END>

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/?	gmalaise	1 WJ 11/27		==			

FE Sent For:

<END>

**Malaise, Gordon**

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**From:** Nancy Rottier [Nancy.Rottier@wicourts.gov]  
**Sent:** Wednesday, November 25, 2009 11:48 AM  
**To:** Malaise, Gordon  
**Subject:** Changes to LRB 36751  
**Attachments:** Juvenile interface legislation - edits to SB 375 clean copy.doc; Juvenile interface legislation - edits to SB 375.doc

I've attached two documents prepared by our Office of Court Operations with proposed changes to SB 375. We are looking to have this be the language of a revised LRB 3675. As I mentioned to you, we will then seek to have Sen. Sullivan introduce the 3675/2 as a substitute amendment. Thanks very much for your assistance. Give me a call if you have questions.

Nancy M. Rottier  
Legislative Liaison, Supreme Court  
16 East, State Capitol  
P.O. Box 1688  
Madison, WI 53701-1688  
(608) 267-9733  
Nancy.Rottier@wicourts.gov

11/25/2009

2009 – 2010 LEGISLATURE

**2009 SENATE BILL 375**

October 29, 2009 – Introduced by Senators SULLIVAN, TAYLOR, COGGS, DARLING and LEHMAN, cosponsored by Representatives KNODL, GRIGSBY, BERCEAU, DANOU and TOWNSEND. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

**AN ACT** *to amend* 48.396 (2) (a), 48.47 (7g), 48.78 (2) (a), 938.396 (2) and 938.78 (2) (a); and *to create* 48.396 (3) of the statutes; **relating to:** the exchange of electronic records between the juvenile court, the director of state courts and the Department of Children and Families and providing a penalty.

***Analysis by the Legislative Reference Bureau***

Under current law, the director of state courts has established a circuit court automated information system, known as the Consolidated Court Automation Programs (CCAP). CCAP is used by the circuit courts of each county to maintain electronic court case records, including cases filed in the courts assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile courts). Records of the juvenile court, however, are confidential and may not be opened to inspection, nor may their contents be disclosed, except under certain statutory exceptions or by an order of the juvenile court.

Also, under current law, the Department of Children and Families (DCF) has established a Statewide Automated Child Welfare Information System (SACWIS) that contains information about child welfare cases entered into that system by DCF, county departments of human services or social services (county departments), and licensed child welfare agencies. Current law permits DCF, a county department, or any other agency that has entered into an information sharing and access agreement with DCF or a county department and that has been approved for access to SACWIS by DCF to have access to information maintained in SACWIS, if necessary for the performance of its duties under state or federal law.

This bill permits the juvenile court to transfer electronic records of the juvenile court to DCF and permits DCF to transfer electronic records that are contained in SACWIS to the juvenile court. The director of state courts may use CCAP to facilitate the transfer of electronic records between the juvenile court and DCF. The director of state courts and DCF must specify what types of information may be transferred.

In addition: 1) DCF may allow access to any information transferred to DCF only for the purpose of providing child welfare or juvenile justice intake or dispositional services; and 2) the juvenile court may allow access to any information transferred to the juvenile court only to the extent permitted under the Children's Code or the Juvenile Justice Code. Finally, the bill requires DCF, the juvenile court, the director of state courts, and any individual who is allowed access to any information transferred to keep the information confidential and to use and further disclose the information only for the purposes permitted and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 48.396 (2) (a) of the statutes is amended to read:

48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 938 or as permitted under this subsection, sub. (3) (b) and (c) 1. or (6), or s. 48.375 (7) (e).

**SECTION 2.** 48.396 (3) of the statutes is created to read:

48.396 (3) (a) In this subsection, "juvenile court" means a court assigned to exercise jurisdiction under this chapter and ch. 938.

(b) The juvenile court may transfer information contained in electronic records maintained under sub. (2) (a) to the department. The department may transfer information contained in electronic records from the statewide automated child welfare information system maintained by the department under s. 48.47 (7g) to the juvenile court. The director of state courts may use the circuit court automated information systems established under s. 758.19 (4) to facilitate the transfer of electronic records between the juvenile court and the

department. The department and the director of state courts shall specify what types of information may be transferred.

(c) 1. The department may allow access to any information transferred to the department under this subsection only for the purpose of providing services under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069. The department may allow access to the records regardless of whether the person who is allowed access to the information is a party to the proceedings in which the electronic records were created.

2. The juvenile court and the director of state courts may allow access to any information transferred to the juvenile court only to the extent that the records may be disclosed under this chapter or ch. 938.

3. The department, the juvenile court, the director of state courts, and any individual who is allowed access to any information transferred under par. (b) shall keep the information confidential and may use and further disclose the information only for the purposes described in subds. 1. and 2.

(d) Any person who intentionally discloses information in violation of par. (c) may be required to forfeit not more than \$5,000.

**SECTION 3.** 48.47 (7g) of the statutes is amended to read: **[remainder of bill is unchanged]**

2009 – 2010 LEGISLATURE

## 2009 SENATE BILL 375

October 29, 2009 – Introduced by Senators SULLIVAN, TAYLOR, COGGS, DARLING and LEHMAN, cosponsored by Representatives KNODL, GRIGSBY, BERCEAU, DANOU and TOWNSEND. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

**AN ACT to amend** 48.396 (2) (a), 48.47 (7g), 48.78 (2) (a), 938.396 (2) and 938.78 (2) (a); **and to create** 48.396 (3) of the statutes; **relating to:** the exchange of electronic records contained in the ~~Consolidated Court Automation Program and in the Statewide Automated Child Welfare Information System~~ between the juvenile court, the director of state courts and the Department of Children and Families and providing a penalty.

### *Analysis by the Legislative Reference Bureau*

Under current law, the director of state courts has established a ~~consolidated circuit court automated information system~~, known as the Consolidated Court Automation Programs (CCAP), ~~that contains information about cases filed in the circuit courts in this state. CCAP is used by the circuit courts of each county to maintain electronic court case records, including cases filed in the courts assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile courts).~~ Records of the juvenile court, however, are confidential and may not be opened to inspection, nor may their contents be disclosed, except under certain statutory exceptions or by an order of the juvenile court.

Also, under current law, the Department of Children and Families (DCF) has established a Statewide Automated Child Welfare Information System (SACWIS) that contains information about child welfare cases entered into that system by DCF, county departments of human services or social services (county departments), and licensed child welfare agencies. Current law permits DCF, a county department, or any other agency that has entered into an information sharing and access agreement with DCF or a county department and that has been approved for access to SACWIS by DCF to have access to information maintained in SACWIS, if necessary for the performance of its duties under state or federal law.

This bill permits the ~~director of state courts and DCF to enter into an agreement to allow for the juvenile court to transfer of electronic records that are contained in the CCAP system of the juvenile court to DCF and for the permits DCF to transfer of electronic records that are contained in SACWIS to the director of state courts juvenile court. The director of state courts may use CCAP to facilitate the transfer of electronic records between the juvenile court and DCF.~~ The director of state courts and DCF must specify what types of information may be transferred ~~under the agreement~~.

In addition, ~~the agreement must permit:~~ 1) DCF ~~to~~ may allow access to any information transferred to DCF ~~under the agreement~~ only for the purpose of providing child welfare or juvenile justice intake or dispositional services; and 2) ~~the director of state courts to~~ juvenile court may allow access to any information transferred to the ~~director of state courts~~ juvenile court only ~~for the purposes of a proceeding to the extent permitted~~ under the Children's Code or the Juvenile Justice Code. Finally, the bill requires DCF, ~~the juvenile court,~~ the director of state courts, and any individual who is allowed access to any information transferred ~~under the agreement~~ to keep the information confidential and to use and further disclose the information only for the purposes permitted ~~under the agreement~~ and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 48.396 (2) (a) of the statutes is amended to read:

48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 938 or as permitted under this ~~section~~ subsection, sub. (3) (b) and (c) 1. or (6), or s. 48.375 (7) (e).

**SECTION 2.** 48.396 (3) of the statutes is created to read:

48.396 (3) (a) In this subsection, ~~“consolidated court automation program system” means the statewide electronic circuit court case management system established under s. 758.19 (4) and maintained by the director of state courts.~~ “juvenile court” means a court assigned to exercise jurisdiction under this chapter and ch. 938.

(b) ~~The department and the director of state courts may enter into an agreement to allow for the juvenile court may transfer of information contained in electronic records that are~~



~~contained in the consolidated court automation program system maintained under sub. (2) (a)~~  
to the department, ~~and for the~~ The department may transfer of information contained in  
electronic records ~~that are contained in from~~ the statewide automated child welfare  
information system maintained by the department under s. 48.47 (7g) to the ~~director of state~~  
~~courts juvenile court~~. The director of state courts may use the circuit court automated  
information systems established under s. 758.19 (4) to facilitate the transfer of electronic  
records between the juvenile court and the department. ~~The agreement~~ department and the  
director of state courts shall specify what types of information may be transferred.

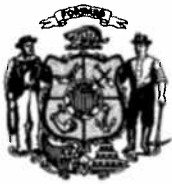
(c) 1. ~~The agreement under par. (b) shall permit the department to~~ may allow access to any  
information transferred to the department under ~~the agreement~~ this subsection only for the  
purpose of providing services under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069.  
The department may allow access to the records regardless of whether the person who is  
allowed access to the information is a party to the proceedings in which the electronic records  
were created.

2. ~~The agreement under par. (b) shall permit juvenile court and~~ the director of state courts ~~to~~  
may allow access to any information transferred to the ~~director of state courts juvenile court~~  
only ~~for the purposes of a proceeding to the extent that the records may be disclosed under~~  
this chapter or ch. 938.

3. The department, the juvenile court, the director of state courts, and any individual who is  
allowed access to any information transferred under par. (b) shall keep the information  
confidential and may use and further disclose the information only for the purposes described  
in subds. 1. and 2.

(d) Any person who intentionally discloses information in violation of par. (c) may be  
required to forfeit not more than \$5,000.

**SECTION 3.** 48.47 (7g) of the statutes is amended to read: **[remainder of bill is unchanged]**



# State of Wisconsin

2009 - 2010 LEGISLATURE

IN 11/23

WANTED MON 11/30 AM

## SENATE SUBSTITUTE AMENDMENT,

### TO 2009 SENATE BILL 375

LRBs0198/?

GMM.../...

Wlj

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- 1 AN ACT... relating to: the exchange of electronic records between the juvenile  
2 courts and the Department of Children and Families and providing a penalty.

#### *Analysis by the Legislative Reference Bureau*

Under current law, the director of state courts has established an automated information system, know as the Consolidated Court Automation Programs (CCAP), that contains information about cases filed in the circuit courts in this state, including cases filed in the courts assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code juvenile courts. Records of the juvenile court, however, are confidential and may not be opened to inspection, nor may their contents be disclosed, except under certain statutory exceptions or by an order of the juvenile court.

Also, under current law, the Department of Children and Families (DCF) has established a Statewide Automated Child Welfare Information System (SACWIS) that contains information about child welfare cases entered into that system by DCF, county departments of human services or social services (county departments), and licensed child welfare agencies. Current law permits DCF, a county department, or any other agency that has entered into an information sharing and access agreement with DCF or a county department, and that has been approved for access to SACWIS by DCF, to have access to information maintained in SACWIS, if necessary for the performance of its duties under state or federal law.

This substitute amendment permits the juvenile court to transfer to DCF the electronic records of the juvenile court and DCF to transfer to the juvenile court the

electronic records of DCF that are maintained in SACWIS. The substitute amendment permits the director of state courts to use CCAP to facilitate the transfer of those electronic records between the juvenile court and DCF and requires the director of state courts and DCF to specify what types of information may be transferred under the substitute amendment.

In addition, the substitute amendment permits 1) DCF to allow access to any information transferred to DCF under the substitute amendment only for the purpose of providing child welfare or juvenile justice intake or dispositional services; and 2) a juvenile court or the director of state courts to allow access to any information transferred to the juvenile court under the substitute amendment only to the extent that the information may be disclosed under the Children's Code or the Juvenile Justice Code.

Finally, the substitute amendment requires DCF, a juvenile court, the director of state courts, and any individual who is allowed access to any information transferred under the substitute amendment to keep the information confidential and to use and further disclose the information only as permitted under the substitute amendment and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the substitute amendment.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 48.396 (2) (a) of the statutes is amended to read:

2           48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this  
3 chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be  
4 entered in books or deposited in files kept for that purpose only. They shall not be  
5 open to inspection or their contents disclosed except by order of the court assigned  
6 to exercise jurisdiction under this chapter and ch. 938 or as permitted under this  
7 ~~section~~ subsection, sub. (3) (b) or (c) 1. or (6), or s. 48.375 (7) (e).

8           **SECTION 2.** 48.396 (3) of the statutes is created to read:

9           48.396 (3) (a) In this subsection, "court" means the court assigned to exercise  
10 jurisdiction under this chapter and ch. 938.

11           (b) The court may transfer to the department information contained in the  
12 electronic records of the court, regardless of whether the department is a party to the

1 proceedings in which the electronic records containing that information were  
2 created, and the department may transfer to the court information contained in the  
3 electronic records of the department that are maintained in the statewide automated  
4 child welfare information system under s. 48.47 (7g). The director of state courts may  
5 use the circuit court automated information systems established under s. 758.19 (4)  
6 to facilitate the transfer of those electronic records between the court and the  
7 department. The director of state courts and the department shall specify what types  
8 of information may be transferred under this paragraph.

9 (c) 1. The department may allow access to any information transferred to the  
10 department under par. (b) only for the purpose of providing services under s. 48.06,  
11 48.067, 48.069, 938.06, 938.067, or 938.069. The department may allow that access  
12 regardless of whether the person who is allowed that access is a party to the  
13 proceedings in which the electronic records containing that information were  
14 created.

15 2. The court or the director of state courts may allow access to any information  
16 transferred to the court under par. (b) only to the extent that the information may  
17 be disclosed under this chapter or ch. 938.

18 3. The department, a court, the director of state courts, and any individual who  
19 is allowed access to any information transferred under par. (b) shall keep the  
20 information confidential and may use and further disclose the information only for  
21 the purpose described in subd. 1. or to the extent permitted under subd. 2.

22 (d) Any person who intentionally discloses information in violation of par. (b)  
23 may be required to forfeit not more than \$5,000.

24 **SECTION 3.** 48.47 (7g) of the statutes is amended to read:

1           48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish  
2   a statewide automated child welfare information system. Notwithstanding ss.  
3   46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,  
4   51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and  
5   (2), and 938.78 (2) (a), the department may enter the content of any record kept or  
6   information received by the department into the statewide automated child welfare  
7   information system, and a county department under s. 46.215, 46.22, or 46.23, the  
8   department, or any other organization that has entered into an information sharing  
9   and access agreement with the department or any of those county departments and  
10   that has been approved for access to the statewide automated child welfare  
11   information system by the department may have access to information that is  
12   maintained in that system, if necessary to enable the county department,  
13   department, or organization to perform its duties under this chapter, ch. 46, 51, 55,  
14   or 938, or 42 USC 670 to 679b to or to coordinate the delivery of services under this  
15   chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also  
16   transfer information that is maintained in the system to a court under s. 48.396 (3)  
17   (b), and the court and the director of state courts may allow access to that information  
18   as provided in s. 48.396 (3) (c) 2.

19           **SECTION 4.** 48.78 (2) (a) of the statutes is amended to read:

20           48.78 (2) (a) No agency may make available for inspection or disclose the  
21   contents of any record kept or information received about an individual in its care  
22   or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),  
23   48.396 (3) (b) or (c) 1., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7),  
24   938.51, or 938.78 or by order of the court.

25           **SECTION 5.** 48.78 (2) (h) of the statutes is amended to read:

1           48.78 (2) (h) Paragraph (a) does not prohibit the department, a county  
2           department, or a licensed child welfare agency from entering the content of any  
3           record kept or information received by the department, county department, or  
4           licensed child welfare agency into the statewide automated child welfare  
5           information system established under s. 48.47 (7g) or the department from  
6           transferring any information maintained in that system to the court under s. 48.396  
7           (3) (b). If the department transfers that information to the court, the court and the  
8           director of state courts may allow access to that information as provided in s. 48.396  
9           (3) (c) 2.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a).

10           **SECTION 6.** 938.396 (2) of the statutes is amended to read:

11           938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to  
12           exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising  
13           jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for  
14           that purpose only. Those records shall not be open to inspection or their contents  
15           disclosed except by order of the court assigned to exercise jurisdiction under this  
16           chapter and ch. 48 or as permitted under sub. (2g) or (10) or s. 48.396 (3) (b) or (c) 1.

17           **SECTION 7.** 938.78 (2) (a) of the statutes is amended to read:

18           938.78 (2) (a) No agency may make available for inspection or disclose the  
19           contents of any record kept or information received about an individual who is or was  
20           in its care or legal custody, except as provided under sub. (3) or s. 48.396 (3) (b) or (c)  
21           1, 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the  
22           court.

23           **SECTION 8.** 938.78 (2) (h) of the statutes is amended to read:

1           938.78 (2) (h) Paragraph (a) does not prohibit the department of children and  
2 families, a county department, or a licensed child welfare agency from entering the  
3 content of any record kept or information received by that department, county  
4 department, or licensed child welfare agency into the statewide automated child  
5 welfare information system established under s. 48.47 (7g) or the department of  
6 children and families from transferring any information maintained in that system  
7 to the court under s. 48.396 (3) (b). If the department transfers that information to  
8 the court, the court and the director of state courts may allow access to that  
9 information as provided in s. 48.396 (3) (c) 2.

**History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283; 1999 a. 9; 2001 a. 38, 59, 109; 2003 a. 292, 321; 2005 a. 25, 277, 293, 344, 406, 434; 2007 a. 20 ss. 3834, 9121 (6) (a); 2007 a. 97.

(END)